



**State of Louisiana**  
Louisiana Department of Health  
Bureau of Health Services Financing

**VIA E-MAIL ONLY**

August 29, 2018

Ms. Allison Young, CEO  
United Healthcare Community Plan  
3838 N. Causeway Blvd., Suite 2600  
Metairie, LA 70002

**RE: Notice of Action for United Healthcare Community Plan's Failure to Monitor PBM–Unauthorized Charging of Prescription Copayments**

Dear Allison:

United Healthcare Community Plan (UHC), through its pharmacy benefit manager (PBM) OptumRx, has charged incorrect copayments on 90-day supply prescriptions. Only one copay per prescription, not per 30-day supply is permitted. LDH was informed that the charging of improper copays began February 1, 2018, and ended March 21, 2018, with 25,436 affected claims totaling \$36,008.46. The charging of such copayments is expressly prohibited by the contract between UHC and LDH. The contract provides:

5.12.2. The MCO and its subcontractors may impose cost sharing on Medicaid members in accordance with 42 CFR §447.50 - §447.57 provided, however, that it does not exceed cost sharing amounts in the Louisiana Medicaid State Plan.

The State Plan allows a 30-day supply or 100 unit doses, whichever is greater, so if the dose is once daily, the pharmacy is allowed to fill a 100-day supply. The copay does not change based on the days' supply. The pharmacy copay is currently based on the total amount that we would reimburse the pharmacy for that claim.

Further, the contract also provides:

7.13.3. As required by 42 CFR §438.6(1), §438.230(a) and §438.230(b)(1),(2),(3) the MCO shall be responsible to oversee all subcontractors' performance and shall be held accountable for any

function and responsibility that it delegates to any subcontractor, including, but not limited to:

7.13.3.1. All provider subcontracts must fulfill the requirements of 42 CFR Part 438 that are appropriate to the service or activity delegated under the subcontract;

7.13.3.5. The MCO shall monitor the subcontractor's performance on an ongoing basis and subject it to formal review according to a periodic schedule consistent with industry standards;

The charging of inappropriate copays demonstrates that UHC failed to provide adequate oversight and monitoring of its PBM as required.

OptumRx has indicated that many enrollees charged these inappropriate copays received refunds, but many refund checks were returned due to incorrect addresses on file. OptumRx has stated that its policy is not to obtain correct addresses and reissue checks for payments of less than \$50. This is not acceptable, as all enrollees must receive full refunds. It is UHC's responsibility to ensure that OptumRx has corrected addresses for these reissued payments.

OptumRx has also indicated that pharmacies that "absorbed" the copay amounts when enrollees were unable to pay were not credited with those amounts. This is unacceptable as well. All impacted pharmacies must be made whole.

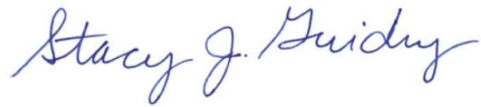
Failure to adhere to the contract requirements cited herein carries a monetary penalty per occurrence per calendar day of non-compliance of \$5,000 as outlined in Section 20.3.3. of the contract between UHC and LDH.

UHC must provide documentation by September 28, 2018, evidencing that each enrollee charged incorrect co-payments has been reimbursed fully. In addition, by September 28, 2018, UHC must also document in writing that each impacted pharmacy has been reimbursed for the enrollee's share that was not collected from the enrollee. Should UHC fail to demonstrate compliance, monetary penalties will accrue starting September 29, 2018.

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Should you have any questions, please do not hesitate to contact me.

Sincerely,

A handwritten signature in blue ink that reads "Stacy J. Guidry". The signature is written in a cursive style with a large, stylized 'S' and 'G'.

Stacy Guidry  
Section Chief, Medicaid Program Operations and Compliance

SG/lj

cc: Michael Boutte  
Sue Fontenot  
Jen Steele  
Kim Sullivan  
Melwyn Wendt  
Christina Wilson  
File #: UHC2-13